

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:20-CV-00504-FDW-DSC

CPI SECURITY SYSTEMS, INC.,

Plaintiff,

v.

VIVINT SMART HOME, INC. f/k/a
Mosaic Acquisition Corp.; and LEGACY
VIVINT SMART HOME, INC. f/k/a
Vivint Smart Home, Inc.,

Defendants.

**PLAINTIFF CPI SECURITY
SYSTEMS, INC.'S
SUPPLEMENTAL DEPOSITION
DESIGNATIONS OF TESTIMONY
TAKEN SUBSEQUENT TO THE
JOINT PRETRIAL SUBMISSION**

Plaintiff CPI Security Systems, Inc. hereby designates the following additional deposition testimony for use in CPI's case in chief and/or rebuttal.¹ Highlighted transcripts of these two additional depositions are included as attachment to this filing.

Objections Key

A: authenticity

F: foundation

FM: form (argumentative, asked and answered, compound, leading, hypothetical, narrative, vague, misstates testimony, calls for legal conclusion)

H: hearsay

IA: inadmissible

IC: incomplete testimony

IR: improper refreshing of recollection

MIL: subject of motion in limine

R: relevance

UP: unduly prejudicial

¹ The deposition testimony below was taken after submission of the parties' joint pretrial submissions on December 10, 2021.

VIVINT OFFICERS, MANAGERS AND CORPORATE DESIGNEES

1. Vivint 30(b)(6) Designee Joshua Crittenden, Vivint Senior Vice President of Sales and Direct-to-Home, 12/16/2021

Designations	Description	Vivint's Objections	Vivint's Counter Designations	CPI's Objections/ Responses
6:20-7:10	Introduction	R		
7:15-9:15	Job Description	R		
10:01-12:05	Recruiting content creation/compensation for sales team performance	R, F, FM 9:13-15, 10:1-6 (vague, foundation), FM 11:3-11 (vague, foundation, compound)		
14:04-14:09	Affirmed spreadsheet recognition	R, F		
15:12-16:08	Training videos	R, F, IC, FM 16:5-19 (vague, foundation, compound)		
16:13-16:19	"Thirty Day to Pro"	R, F, FM 16:5-19 (vague, foundation, compound)		
16:21-17:19	Same	R, F		
18:02-18:07	Affirmation of video year (2020)	R, F		
18:11-18:14	Video played	R, F		
18:19-19:24	Video played – legitimacy objections by potential customers	R, F, FM 19:20-25, 20:1-11 (foundation, misstates testimony)		
20:01-20:14	Affirmation that sales teams are trained to focus on homes with current systems and	R, F, FM 19:20-25, 20:1-11 (foundation,		

Designations	Description	Vivint's Objections	Vivint's Counter Designations	CPI's Objections/ Responses
	two cars in driveway to overcome main objection in video	misstates testimony)		
20:22-21:02	Asking Crittenden to confirm that a company with a system currently in a home as already overcome the legitimacy issue w homeowner	R, F, FM 20:22-25, 21:1-11 (foundation, vague, speculation)		
21:07-22:09	Same	R, F, FM 20:22-25, 21:1-11 (foundation, vague, speculation) FM 22:6-25, 23:1-15 (foundation, speculation, assumes facts not in evidence)		
22:13-23:20	Doesn't want to speculate on why a homeowner chose a particular system	R, F, FM 22:6-25, 23:1-15 (foundation, speculation, assumes facts not in evidence), FM 23:16-25, 24:1-11 (foundation, speculation)		
23:23-24:18	Question - if the homeowner believes that the Vivint sales rep has an affiliation with the existing alarm	R, F, FM 23:16-25, 24:1-11 (foundation, speculation) , FM 24:11-		

Designations	Description	Vivint's Objections	Vivint's Counter Designations	CPI's Objections/ Responses
	provider that that would be one way to overcome the legitimacy objection?	25, 25:1-5 (foundation, speculation, assumes facts not in evidence)		
24:24-25:05	Crittenden answers 'no'	R, F, FM 24:11-25, 25:1-5 (foundation, speculation, assumes facts not in evidence)		
25:17-26:12	Vivint training video trains reps NOT to ask for express permission to come into the home	R, F, FM 26:10-25, 27:1-2 (foundation, misstates testimony, argumentative)		
26:14-27:06	Same	R, F, FM 26:10-25, 27:1-2 (foundation, misstates testimony, argumentative), FM 27:3-13 (asked and answered, argumentative, foundation, misstates testimony)		
27:08-28:03	Based on that, is the training ethical?	R, F, FM 27:3-13		

Designations	Description	Vivint's Objections	Vivint's Counter Designations	CPI's Objections/ Responses
		(asked and answered, argumentative, foundation, misstates testimony), FM 28:1-13 (asked and answered)		
28:06-28:18	Answers 'yes'	R, F, FM 28:1-13 (asked and answered)		
29:16-30:01	Affirmation that Sales and Regional Managers have influence how their sales reps sell	R, F		
31:02-31:04	Video played. "How you do one thing is how you do everything"	R, F		
32:03-32:07	Q: Do you believe the motto is true?	R, F, FM 31:23-25, 32:1-6 (foundation, vague), FM 32:7-13 (foundation, vague)		
32:09-32:15	Not sure how to answer. Q: Do you think it holds true for people that choose not to sell in the right way?	R, F, FM 32:7-13 (foundation, vague), FM 32:14-20 (foundation, vague, speculation)		
32:17-32:25	Q: If a sales rep engaged in DSP once would it be reasonable to assume they would do so again, based on	R, F, FM 32:14-20 (foundation, vague, speculation)		

Designations	Description	Vivint's Objections	Vivint's Counter Designations	CPI's Objections/ Responses
	the motto that's taught?	, FM 32:21-25, 33:1-6 (foundation, vague, speculation)		
33:03-33:11	Same. A: No.	R, F, FM 32:21-25, 33:1-6 (foundation, vague, speculation), FM 33:7-24 (foundation, vague, speculation)		
35:18-35:20	Ever fired someone for DSP?	R, F, FM 35:18-25 (compound, foundation, vague as to DSP)		
35:23-37:24	Yes, around 50. Otto Zelaya	R, F, FM 35:18-25 (compound, foundation, vague as to DSP), FM 37:23-25, 38:1-3 (foundation, vague)		
38:02-38:03	Doesn't know why he was fired.	R, F, FM 37:23-25, 38:1-3 (foundation, vague)		
38:11-38:20	Jason Newby	R, F, FM 38:19-24 (foundation, vague)		
38:23-38:24	Confirmation he was terminated for DSP	R, F, FM 38:19-24		

Designations	Description	Vivint's Objections	Vivint's Counter Designations	CPI's Objections/ Responses
		(foundation, vague)		
39:20-40:07	Sets a bad example to have reg mgr fired for DSP	R, F, FM 39:20-25, 40:1-7 (foundation, vague, speculation)		
44:01-44:04	Exhibit P245/Vivint 3660	R, F		
44:14-46:07	Insider Article re Josh Coen	R, F		
46:14-46:15	Josh Coen – terminated for DSP?	R, F, FM 46:14-23 (foundation, vague)		
46:17-46:25	Coen was Terminated for cause/P246	R, F, FM 46:14-23 (foundation, vague)		
47:03-47:25	Exhibit P246 – sales people Coen/ Pears/ Dougher/ Ramon	R, F		
48:10-49:04	Ogletree/Kunz also sales people mentioned on P246. Exhibit P247 is introduced – internal Vivint sales article	R, F		
49:07-49:17	The rep interviewed in the article ants to be the next Jordan Binning	R, F, FM 49:15-21 (foundation, vague)		
49:20-49:23	Jordan Binning had one of the largest sales groups	R, F, FM 49:15-21 (foundation, vague, speculation) FM 49:22-25, 50:1-2 (foundation,		

Designations	Description	Vivint's Objections	Vivint's Counter Designations	CPI's Objections/ Responses
		vague, speculation)		
50:01-50:15	Exhibit P211/ "The Tour" Vivint sales competition	R, F, FM 49:22-25, 50:1-2 (foundation, vague, speculation) FM		
50:18-51:19	"The Tour" and "Pick up Games" sales competitions	R, F		
52:18-53:06	"Premier League"/"Viper"/"Thirty Days to Pro"	R, F		
56:02-56:18	Social media – managers brag about how much they make for recruiting purposes	R, F, FM 56:16-20 (foundation, speculation)		
56:22-57:16	Advertising a flashy life style for recruiting	R, F, FM 57:14-21 (foundation, speculation, vague)		
57:19-59:03	Josh Coen on Facebook	R, F, FM 57:14-25, 58:1-6 (foundation, speculation, vague)		
60:14-61:08	Coen posting Detlefson with fancy car	R, F, FM 61:6-19 (foundation, speculation, vague, assumes facts not in evidence)		
61:11-61:24	Are posts like that authorized by Vivint for recruiting?	R, F, FM 61:6-19 (foundation, speculation,		

Designations	Description	Vivint's Objections	Vivint's Counter Designations	CPI's Objections/ Responses
		vague, assumes facts not in evidence), FM 61:20-25, 62:1-8 (foundation, mischaracterizes evidence)		
62:02-62:10	(Evasive answer.) Vivint sales tracking software	R, F, FM 61:20-25, 62:1-8 (foundation, mischaracterizes evidence), FM 62:9-20 (foundation, vague)		
62:13-62:20	What type of software/program	R, F, FM 62:9-20 (foundation, vague)		
64:03-64:25	Exhibit P95 – list of Vivint sales and other training videos	R, F, FM 64:22-25, 65:1-5 (foundation, speculation, misstates facts in evidence)		
65:02-65:05	Crittenden wants to scroll thru the list before answering	R, F, FM 64:22-25, 65:1-5 (foundation, speculation, misstates facts in evidence)		
65:19 - 66:07	Crittenden is not involved in creating	R, F		

Designations	Description	Vivint's Objections	Vivint's Counter Designations	CPI's Objections/ Responses
	video content for promoting competition			
66:16 - 68:04	Videos – sales competition/incentive trips/awards/purpose of awards videos	R, F		

CUSTOMER WITNESSES

1. Terrell Harris, 12/09/2021 (Taken in *ADT v Vivint*, Case No. 20-cv-23391 S.D. Fla.)

Designations	Description	Vivint's Objections	Vivint's Counter Designations	CPI's Objections/ Responses
6:13-7:16	Introduction	R, MIL, IA		
7:19-7:23	Confirmation that ADT was his alarm provider	R, MIL, IA		
7:25-7:25	Never had contract with Vivint	R, MIL, IA		
8:08-8:11	Confirmation that door-to-door sales rep had come to his home in Sept 2021	R, F, MIL, IA		
8:14-8:16	Confirmation it was Vivint	R, F, MIL, IA		
8:20-13:19	Ring video played of Vivint rep at his door who had all of his personal info including ADT account information. Confirmation of how he retrieved the Ring doorbell video that was authenticated. Confirmation and description of his	R, F, MIL, IA, H		

Designations	Description	Vivint's Objections	Vivint's Counter Designations	CPI's Objections/ Responses
	contact with Vivint via Facebook.			

Dated: January 5, 2022

Respectfully submitted,

SHOOK, HARDY & BACON L.L.P.

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***Counsel for Plaintiff CPI Security
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CERTIFICATE OF SERVICE

I certify that I have electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which will send notification of filing to all counsel and parties of record.

This the 5th day of January, 2022.

s/ Caroline M. Gieser
Caroline M. Gieser